

IN THE UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

IN RE:

JASON P FORD  
265 CR 1721  
RUSK, TX 75785  
xxx-xx-0311  
JODI R FORD  
265 CR 1721  
RUSK, TX 75785  
xxx-xx-1246

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Case No. 24-60416  
Chapter 13

Debtor(s)

MOTION TO DISMISS WITH PREJUDICE FOR 120 DAYS  
AND SETTING HEARING

**The Trustee further requests this Court to set this Motion for hearing on the 12th day of Septmber 2024, at 10:00 am UNITED STATES BANKRUPTCY COURT PLAZA TOWER, 110 N. COLLEGE AVENUE NINTH FLOOR, TYLER, TX**

To the Honorable Judge of Said Court:

COMES NOW LLOYD KRAUS, Trustee herein, and files this his Motion to Dismiss with Prejudice for 120 Days and Setting Hearing in the above numbered and styled proceeding, and for cause would show this Honorable Court as follows:

1. **Jurisdiction:** The Court has jurisdiction over this proceeding in accordance with 28 U.S.C. §§ 157 and 1334. This is a core proceeding according to 28 U.S.C. § 157(b).
2. **Dismiss Case for Failure to Make Plan Payments:** The Trustee requests this case be dismissed pursuant to the provisions of 11 U.S.C. §§ 1307(c)(1) and (c)(4) based upon the failure of the Debtors to make plan payments and the Trustee asserts that such dismissal would be in the best interests of the Creditors.
3. **Amount of arrearage in Plan Payments:** The Debtors are in arrears in the amount of **\$3,700.00** as of 8/21/2024 plus any additional plan payments that come due between that date and the hearing date noted above.
4. **Bringing Plan Payments Current Prior to the Hearing:** To prevent the dismissal of this case, the Debtors may bring the plan payments current by making

payments by one of the acceptable options as set forth on the Trustee's website in sufficient time for the payment to post prior to the Court hearing.<sup>1</sup>

5. **Artificially Bringing Plan Payments Current through an Amended Plan:** The Trustee would assert that an amended Chapter 13 Plan filed by the Debtors that artificially brings the Debtors current on plan payments without requiring the Debtors to make any actual plan payments, absent good cause to file such, is filed in bad faith in violation of the provisions of 11 U.S.C. § 1325(a)(3) and would **not** constitute a defense to the dismissal of this case as requested under this Motion to Dismiss.

6. **Dismissal With Prejudice to Prevent the Debtors' Re-filing a Second Case for 120 Days:** The Trustee requests that this case be dismissed with prejudice to prevent the Debtors from filing for relief under any Chapter under Title 11 of the United States Code for a period of 120 days. In support of same, the Trustee asserts that the Debtors' actions as described herein constitute "cause" under 11 U.S.C. § 349(a).

WHEREFORE, PREMISES CONSIDERED, the Trustee requests that this case be dismissed with prejudice thereby prohibiting the Debtors from re-filing for any relief under Title 11 of the United States Code for a period of 120 days; that any funds remaining on deposit with the Trustee shall be distributed, to the extent of funds available, first to the payment of any accrued adequate protection payments as set forth in the Debtors' most recent filed Chapter 13 Plan to the secured creditors as set forth therein, second to the payment of all approved administrative expenses, and, finally, the balance, if any, to the Debtors; and that the Trustee be given such other relief that the Trustee may show himself entitled.

Respectfully submitted,

Lloyd Kraus  
CHAPTER 13 TRUSTEE

/s/ Lloyd Kraus

Lloyd Kraus, Chapter 13 Trustee SBN 24066773  
Tagnia F. Clark, Staff Attorney SBN 24007194  
110 N. College, Suite 1200  
Tyler, TX 75702  
(903) 593-7777; FAX (903) 597-1313

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<sup>1</sup> See the various payment options at the Trustee's website at <http://ch13tyler.com> under the tab on the left of the screen entitled "Debtors".

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Motion to Dismiss and Setting Hearing has been served upon the following parties in interest by mailing a copy of same to them via first class mail or electronically on 8/21/2024:

WILLIAM H LIVELY, JR. WHL, PLLC  
432 S. BONNER AVE.  
TYLER, TX 75702

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265 CR 1721  
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/s/ Lloyd Kraus  
Lloyd Kraus